

AMENDED IN SENATE APRIL 17, 2013

SENATE BILL

No. 284

Introduced by Senator De León

February 14, 2013

An act to add and repeal Sections 17053.86 and 23686 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 284, as amended, De León. Income taxes: credits: contributions to education funds.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill, under both laws, for taxable years beginning on or after January 1, 2014, and before January 1, 2017, would allow a credit equal to a certain percentage of a contribution to the College Access Tax Credit Fund, established by this bill, for specified education purposes, as provided. This bill would specify that the aggregate amount of credit that may be allocated under both laws shall not exceed \$500,000,000 for each calendar year, *as specified*, and would require the ~~Treasurer~~ *California Educational Facilities Authority* to perform certain duties with regard to allocating and certifying the tax credits allowed under these provisions.

This bill would become operative only if SB 285 of the 2013–14 Regular Session is enacted and takes effect on or before January 1, 2014.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.86 is added to the Revenue and Taxation Code, to read:

17053.86. (a) (1) For taxable years beginning on or after January 1, 2014, and before January 1, 2017, there shall be allowed a credit against the “net tax,” as defined in Section 17039, an amount equal to the following:

(A) For each taxable year beginning on and after January 1, 2014, and before January 1, 2015, 60 percent of the amount contributed by the taxpayer *for the* 2014 taxable year to the College Access Tax Credit Fund, as allocated and certified by the ~~Treasurer~~ *California Educational Facilities Authority*.

(B) For each taxable year beginning on and after January 1, 2015, and before January 1, 2016, 55 percent of the amount contributed by the taxpayer *for the* 2015 taxable year to the College Access Tax Credit Fund, as allocated and certified by the ~~Treasurer~~ *California Educational Facilities Authority*.

(C) For each taxable year beginning on and after January 1, 2016, and before January 1, 2017, 50 percent of the amount contributed by the taxpayer *for the* 2016 taxable year to the College Access Tax Credit Fund, as allocated and certified by the ~~Treasurer~~ *California Educational Facilities Authority*.

(2) Contributions shall be made only in cash.

(b) (1) The aggregate amount of credit that may be allocated and certified pursuant to this section and Section 23686 shall ~~not exceed five hundred~~ *be an amount equal to the sum of all of the following:*

(A) *Five hundred* million dollars (\$500,000,000) *in credits* for the 2014 calendar year and ~~five hundred million dollars~~ (\$500,000,000) ~~for each calendar year thereafter.~~

(B) *The amount of previously unallocated and uncertified credits.*

(2) (A) For purposes of this section, the ~~Treasurer~~ *California Educational Facilities Authority* shall do all of the following:

(i) On or after January 1, 2014, and before January 1, 2017, allocate and certify tax credits to taxpayers under this section.

(ii) Establish a procedure for taxpayers to contribute to the College Access Tax Credit Fund and to obtain from the ~~Treasurer~~

California Educational Facilities Authority a certification for the credit allowed by this section.

~~(iii) On or after January 1, 2014, and before January 1, 2016, notify the taxpayer within seven days of receipt of a contribution of the contribution amount that is eligible for a credit. If the allocation and certification would be limited or denied because the five hundred million dollar (\$500,000,000) cap set forth in paragraph (1) of subdivision (b) has been reached, the Treasurer shall offer the taxpayer a choice between either the return of the contribution or the receipt of the certification for the next taxable year.~~

~~(iv) On or after January 1, 2016, and before January 1, 2017, notify the taxpayer within seven days of receipt of a contribution; the contribution amount that is eligible for a credit. If the allocation and certification would be limited or denied because the five hundred million dollar (\$500,000,000) cap set forth in paragraph (1) of subdivision (b) has been reached, the Treasurer shall offer the taxpayer the option of a return of all of the contribution or the portion of the contribution that would be limited, as applicable.~~

~~(v)~~

~~(iii) Provide to the Franchise Tax Board a copy of each credit certificate issued for the calendar year by March 1 of the calendar year immediately following the year in which those certificates are issued.~~

~~(B) (i) The California Educational Facilities Authority shall adopt any regulations necessary to implement this paragraph.~~

~~(ii) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any regulation adopted by the California Educational Facilities Authority pursuant to clause (i).~~

(c) (1) In the case where the credit allowed by this section exceeds the “net tax,” the excess may be carried over to reduce the “net tax” in the following year, and succeeding five years if necessary, until the credit is exhausted.

(2) A deduction shall not be allowed under this part for amounts taken into account under this section in calculating the credit allowed by this section.

(d) (1) The College Access Tax Credit Fund is hereby created as a special fund in the State Treasury. All revenue in this special fund, upon appropriation by the Legislature, shall be allocated to

1 the Student Aid Commission for purposes of awarding Cal Grants
2 to students pursuant to Section 69432.75 of the Education Code
3 *and to reimburse all administrative costs incurred by the Student*
4 *Aid Commission and the California Educational Facilities*
5 *Authority in connection with the duties required under this section*
6 *and Section 23686.*

7 (2) The tax credit allowed by subdivision (a) of this section and
8 subdivision (a) of Section 23686 for donations to the College
9 Access Tax Credit Fund shall be known as the College Access
10 Tax Credit.

11 (e) This section shall remain in effect only until December 1,
12 2017, and as of that date is repealed.

13 SEC. 2. Section 23686 is added to the Revenue and Taxation
14 Code, to read:

15 23686. (a) (1) For each taxable year beginning on or after
16 January 1, 2014, and before January 1, 2017, there shall be allowed
17 a credit against the "tax," as defined in Section 23036, an amount
18 equal to the following:

19 (A) For taxable years *beginning* on and after January 1, 2014,
20 and before January 1, 2015, 60 percent of the amount contributed
21 by the taxpayer ~~during the 2013 for the 2014~~ taxable year to the
22 College Access Tax Credit Fund, as allocated and certified by the
23 ~~Treasurer~~ *California Educational Facilities Authority.*

24 (B) For taxable years *beginning* on and after January 1, 2015,
25 and before January 1, 2016, 55 percent of the amount contributed
26 by the taxpayer ~~during the 2014 for the 2015~~ taxable year to the
27 College Access Tax Credit Fund, as allocated and certified by the
28 ~~Treasurer~~ *California Educational Facilities Authority.*

29 (C) For taxable years *beginning* on and after January 1, 2016,
30 and before January 1, 2017, 50 percent of the amount contributed
31 by the taxpayer ~~during the 2015 for the 2016~~ taxable year to the
32 College Access Tax Credit Fund, as allocated and certified by the
33 ~~Treasurer~~ *California Educational Facilities Authority.*

34 (2) Contributions shall be made only in cash.

35 (b) (1) The aggregate amount of credit that may be allocated
36 and certified pursuant to this section and Section 17053.86 shall
37 ~~not exceed five hundred~~ *be an amount equal to the sum of all of*
38 *the following:*

1 (A) Five hundred million dollars (\$500,000,000) for the 2014
2 calendar year and ~~five hundred million dollars (\$500,000,000) for~~
3 each calendar year thereafter.

4 (B) *The amount of previously unallocated and uncertified*
5 *credits.*

6 (2) (A) For purposes of this section, the ~~Treasurer California~~
7 *Educational Facilities Authority* shall do all of the following:

8 (i) On or after January 1, 2014, and before January 1, ~~2015~~
9 *2017*, allocate and certify tax credits to taxpayers under this section.

10 (ii) Establish a procedure for taxpayers to contribute to the
11 College Access Tax Credit Fund and to obtain from the ~~Treasurer~~
12 *California Educational Facilities Authority* a certification for the
13 credit allowed by this section.

14 ~~(iii) On or after January 1, 2015, and before January 1, 2016,~~
15 ~~notify the taxpayer within seven days of receipt of a contribution~~
16 ~~of the contribution amount that is eligible for a credit. If the~~
17 ~~allocation and certification would be limited or denied because~~
18 ~~the five hundred million dollar (\$500,000,000) cap set forth in~~
19 ~~paragraph (1) of subdivision (b) has been reached, the Treasurer~~
20 ~~shall offer the taxpayer a choice between either the return of the~~
21 ~~contribution or the receipt of the certification for the next taxable~~
22 ~~year.~~

23 ~~(iv) On or after January 1, 2016, and before January 1, 2017,~~
24 ~~notify the taxpayer within seven days of receipt of a contribution,~~
25 ~~the contribution amount that is eligible for a credit. If the allocation~~
26 ~~and certification would be limited or denied because the five~~
27 ~~hundred million dollar (\$500,000,000) cap set forth in paragraph~~
28 ~~(1) of subdivision (b) has been reached, the Treasurer shall offer~~
29 ~~the taxpayer the option of a return of all of the contribution or the~~
30 ~~portion of the contribution that would be limited, as applicable.~~

31 ~~(v)~~

32 (iii) Provide to the Franchise Tax Board a copy of each credit
33 certificate issued for the calendar year by March 1 of the calendar
34 year immediately following the year in which those certificates
35 are issued.

36 (B) (i) *The California Educational Facilities Authority shall*
37 *adopt any regulations necessary to implement this paragraph.*

38 (ii) *Chapter 3.5 (commencing with Section 11340) of Part 1 of*
39 *Division 3 of Title 2 of the Government Code does not apply to*

1 *any regulation adopted by the California Educational Facilities*
2 *Authority pursuant to clause (i).*

3 (c) (1) In the case where the credit allowed by this section
4 exceeds the “tax,” the excess may be carried over to reduce the
5 “tax” in the following year, and succeeding five years if necessary,
6 until the credit is exhausted.

7 (2) A deduction shall not be allowed under this part for amounts
8 taken into account under this section in calculating the credit
9 allowed by this section.

10 (d) This section shall remain in effect only until December 1,
11 2017, and as of that date is repealed.

12 *SEC. 3. This act shall become operative only if Senate Bill*
13 *285 of the 2013–14 Regular Session is enacted and takes effect on*
14 *or before January 1, 2014.*

15 ~~SEC. 3.~~

16 *SEC. 4.* This act provides for a tax levy within the meaning of
17 Article IV of the Constitution and shall go into immediate effect.